

Dkt.	Description	Decision
252	Intel MSJ re: Indirect & Willful Infringement	<b>Pre-suit indirect:</b> Denied <b>Pre-suit willfulness:</b> Denied <b>Post-suit willfulness:</b> Denied, but VLSI will not be permitted to argue as evidence of willfulness that Intel continued to manufacture products after they were sued. <b>Enhanced damages:</b> Denied
253	Intel MSJ re: DOE for ‘759 Patent	Denied
254	Intel MSJ re: Non-Infringement of ‘373 Patent	Denied
255	Intel MSJ re: Non-Infringement of ‘357 Patent	Granted
256	Intel MSJ re: ‘357 Priority Date	Moot
257	Intel MSJ re: DOE for Six Patents	Denied
261	Intel Daubert for Annavaram re: Power Testing for ‘373 Patent	Denied
262	Intel Daubert for Conte and Annavaram re: Power Testing for ‘759 Patent	Denied

263	Intel Daubert for Chandler	Partially Granted (Not allowed to testify on Intel's unwillingness to license absent a lawsuit; with respect to rebuttal, Intel may <i>voir dire</i> Chandler to determine his opinion and the basis for his opinion)
264	Intel Daubert for Sullivan	Denied
265	Intel Daubert for Annavaram re: Power Testing of '373 Patent	Denied
266	Intel Daubert re: Innography	Denied
267	Intel Daubert re: Litigation Misconduct	Converted to motions-in-limine, which were Granted
275	VLSI MSJ	<b>Unclean hands:</b> Denied <b>Marking:</b> Granted (Plaintiff cannot bring in evidence of prior products)
276	VLSI Daubert to Exclude Damages-Related Testimony of Intel Experts	<b>Pascarella:</b> Granted <b>Colwell:</b> Denied (but VLSI may object if Dr. Colwell says/hints that the patents are not valid or not infringed) <b>Huston:</b> Denied (But if Huston tries to address ROI at trial Judge won't let him, and VLSI may object if Mr. Huston says/hints that the patents are not valid or not infringed)
366	Defendant Intel Corporation's Emergency Opposed Motion To Continue Trial	Denied
367	Defendant Intel Corporation's Motion To Stay Court Proceedings	Denied

Dkt.	MIL	Decision
363	VLSI MIL No. 1.1 – Geographic location of infringement activities.	Granted
363	VLSI MIL No. 1.2 – References to alleged noninfringement alternatives	Granted
363	VLSI MIL No. 1.3 – Indefiniteness arguments not raised during claim construction	Granted, but if the door is opened at trial, the parties are directed to apprise the Court outside of the presence of the jury.
363	VLSI MIL No. 1.4 – Fact witness testimony instructed not to answer	Granted - because irrelevant; fact witnesses may only testify about facts
363	VLSI MIL No. 1.5 – Intel refused to provide testimony	Granted - because irrelevant
363	VLSI MIL No. 1.6 – Hypothetical royalty stacking	Granted, but if the door is opened at trial, the parties are directed to apprise the Court outside of the presence of the jury.
363	VLSI MIL No. 1.7 – Alleged inventor misconduct before the PTO	Granted

364	VLSI MIL No. 2.1 – Fortress expected returns	Granted, but not definitively barred, just need to be given context when it is proffered in order to make a determination at trial.
364	VLSI MIL No. 2.2 – Plaintiff relationship with SoftBank	Intel will not affirmatively offer evidence about SoftBank but may offer such evidence if VLSI opens the door. Intel may discuss VLSI's relationship with Fortress, but disparaging remarks not allowed.
364	VLSI MIL No. 2.3 – Pejorative description of the Plaintiff	Granted (as to both parties).
364	VLSI MIL No. 2.4 – Damages are unprecedented or lottery ticket	Granted
364	VLSI MIL No. 2.5 – How VLSI is paying the cost of the litigation	Granted (as to both parties).
364	VLSI MIL No. 2.6 – Other litigation involving VLSI	Granted (as to both parties).
364	VLSI MIL No. 2.7 – Forum shopping.	Granted
364	VLSI MIL No. 2.7 – Litigation abuse	Granted
364	VLSI MIL No. 2.7 – Western District as a popular venue	Granted
364	VLSI MIL No. 2.8 – Attorney fee agreements between VLSI and its counsel	Granted (as to both parties).
364	VLSI MIL No. 2.9 – Allegations of any discovery abuse including withholding docs or destruction of docs by either party	Granted (as to both parties).
364	VLSI MIL No. 2.10 – [REDACTED]	Granted
364	VLSI MIL No. 2.10 – State bar claim	Granted
365	VLSI MIL No. 3.1 – Julie Davis	Denied
365	VLSI MIL No. 3.2 – Intel's reputation in the industry	Granted
365	VLSI MIL No. 3.2 – Intel's reputation for innovation	Denied
365	VLSI MIL No. 3.2 – Intel's reputation for philanthropy	Granted (as to both parties).
365	VLSI MIL No. 3.3 – Possibility that damages could be enhanced	Granted
365	VLSI MIL No. 3.4 – Possibility of damages increasing the price of products etc.	Granted
368	VLSI MIL No. 4.1 – Intel's products practicing comparable third party patents	Denied, but going to take it up with relevant witnesses and address it with respect to relevance.

368	VLSI MIL 4.2 - Mr. Huston's [REDACTED] Hearsay Evidence	Consistent with Intel's statement in its Motion in Limine No. 4 to Exclude Evidence and Argument Regarding [REDACTED] (D.I. 362 at 7-8 n.4), the parties stipulate that neither Intel nor VLSI will offer any evidence or opinions regarding [REDACTED] for any purpose in Case No. 6:19-cv-000254, i.e. Case No. 6:21-cv-57.
368	VLSI MIL No. 4.3 – Intel's patents	Intel is allowed to say accurate historical information about their patent portfolio but “Intel is not going to connect, intimate or say explicitly that the fact that they have patents has any impact with respect to the value of your patents” in its opening statement. Intel must raise it with the Court before they put on any expert “who might mention a specific patent.” VLSI may then object at that time. A charge to the jury is allowed. Statements that certain patents exist is allowed, but no need to mention they're Intel patents. Intel must notify the court if they plan to discuss one of their patents and VLSI has an opportunity to object.  <b>VLSI notes that Intel has represented they will not be arguing invalidity based on any elected prior art patents.</b>
368	VLSI MIL No. 4.4 – Patents not valuable because they were not infringed	Resolved by the Court's ruling on VLSI's <i>Daubert</i> motion challenging the testimony of Dr. Colwell (D.I. 276).
369	VLSI MIL No. 5.2 – Excluding Intel's experts from relying on hearsay	Denied, but the evidence has to be in the expert reports or trial record for an expert to rely on it as to both sides. If expert relies on a hearsay statement that is not disclosed in the expert's report, evidence of what the declarant said has to be presented at trial.
369	VLSI MIL No. 5.3 – Evidence or argument contrary to claim constructions	Granted as to all sides
369	VLSI MIL No. 5.4 – Predecessor's non-assertion against Intel	Granted
369	VLSI MIL No. 5.5 – Value and propriety of acquiring patents from others	Granted
369	VLSI MIL No. 5.6 – Prior retentions and court rulings in other courts	Granted as to both sides if the door is opened casting experts in a negative light, experts are able to explain why.
370	VLSI MIL No. 6.2 – Absence of Inventors at trial	Intel cannot intimate that VLSI should've/could've brought inventors and they're hiding something unless

		VLSI opens the door (ex. VLSI has testimony that patent made Intel what it is)
369	VLSI MIL No. 5.1 – Lay witness infringement opinions	Granted - fact witnesses may only testify about facts
370	VLSI MIL No. 6.1 – Intel's Alleged Unclean Hands Defense	Granted
370	VLSI MIL No. 6.3 – Disparaging The PTO And Its Examiners	Granted unless door is opened
370	VLSI MIL No. 6.4 – Prosecution history	Denied
370	VLSI MIL No. 6.5 – Withdrawn or narrowed claims	Granted
370	VLSI MIL No. 6.6 – Non-Elected Prior Art	Granted – Relevant to damages, but not a decision on admissibility for other purposes; parties may ask and object to non-elected prior art or individual claim elements - applies to both parties (below) (Intel not going to offer prior art for damages purposes that was not already included in expert reports and parties are instructed to object at trial).
370	VLSI MIL No. 6.7 – Allegations That Individual Claim Elements Were In The Prior Art	Granted (Need to be discussed in the context of damages or obviousness rather than individually) (also see above -applies to both parties).
370	VLSI MIL No. 6.8 – Comparing Accused Products To Prior Art	Objections can be made with respect to admissibility
362	Intel MIL No. 1 – Exclude References to Other Litigations and Proceedings	Granted
362	Intel MIL No. 2 – Exclude References to Discovery Disputes	Granted
362	Intel MIL No. 3 – Exclude References to Intel's Purported Bad Acts and Conduct Outside This Litigation	Granted - unless Intel opens the door
362	Intel MIL No. 5 – Exclude Argument or Testimony That Intel Is a "Patent Holdout"	Resolved by the Court's ruling on Intel's <i>Daubert</i> motion challenging the testimony of Mr. Chandler (D.I. 263) and VLSI's representation that it will not refer to Intel as a "patent holdout."
362	Intel MIL No. 6 – Exclude Irrelevant and Prejudicial References to Intel and Processor Industry Financial Performance, Financial Metrics, and Prior Intel Litigation Settlements	Granted - comments about sales about accused products is okay, anything irrelevant to damages calculation is out; sales must be both in expert reports & relevant; settlement agreements cannot be part of either party's opening. After openings, the parties must notify the court prior to discussing any of the settlement agreements so the other party has an opportunity to object.

362	Intel MIL No. 7 – Exclude References to Innography Patent Strength Scores	Denied
362	Intel MIL No. 8 – Exclude Expert Testimony Based on Speculation	Denied, but specifically resolved by the Court's <i>Daubert</i> motion ruling (D.I. 267) as to the issue of Professor Conte testifying that "it is quite likely that if he were to examine confidential information from other companies, he'd find the patent widely used, and if he were to examine unaccused Intel products, he'd find that it would -- may be used there as well."
362	Intel MIL No. 9 – Preclude VLSI's Experts From Offering Testimony About Sigmatel, Freescale, or Nxp	Denied, but the parties should limit what they say in opening argument to factual information about these companies.
362	Intel MIL No. 10 – Exclude References to Expert Testimony in Other Cases	Granted
362	Intel MIL No. 12 – Exclude Prejudicial Evidence and Testimony Regarding the Deceased Inventor of the '759 Patent	Denied - may offer that he is dead, but not the details of his death (must be offered in an admissible manner)
362	Intel MIL No. 13 – Exclude Comparisons of Intel Products to Patent Embodiments	Denied.
362	Intel MIL No. 14 – Exclude Comparisons of Burden of Proof Standards	Denied

**SO ORDERED.**

**SIGNED** this 19th day of February, 2021.

  
 ALAN D ALBRIGHT  
 UNITED STATES DISTRICT JUDGE